

AIR FORCE ADR PROGRAM

**APPROPRIATE DISPUTE
RESOLUTION
BRIEFING FOR
TINKER AFB
SUPERVISORY PERSONNEL**

Managing Conflict in the Workplace

- Air Force employs approximately 500,000 people
- Each year, some 7,000 employees find themselves in some sort of dispute in the workplace
- Traditional avenues of resolving these disputes are not always the best way to uncover **and resolve** the real problems that exist
- ADR can fit the form to your fuss and resolve many workplace disputes in a better, faster, more sensible way

Goals of the Air Force ADR Program

- Promote voluntary, informal and consensual dispute resolution
- Promote creative, efficient and sensible outcomes in dispute resolution
- Reduce the tangible and intangible costs, in time and resources, associated with dispute resolution

Benefits of ADR To You as a Supervisor

- ◆ Provides you with more control of the dispute resolution process
- ◆ Provides you with more control to shape the dispute's outcome
- ◆ Enables you to focus on the future rather than the past
- ◆ Frees you up to stay focused on your mission
- ◆ Efficient use of diminishing resources
- ◆ Offers you creative ways of handling unique problems (Changing workforce - elimination of bases and installations)
- ◆ Hones your listening and communication skills

What is ADR?

Congress, in the Administrative Dispute Resolution Act of 1996, Pub. L. No. 104-320, 110 Stat. 3870 (1996), defined ADR as:

“any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, fact-finding, minitrials, arbitration and use of ombuds, or any combination thereof”

What is ADR?

- Set of common sense techniques and processes to resolve disputes in a faster, cheaper, less adversarial, less formal manner that can achieve as good results or better than the traditional means of settling disputes.
- **Supplemental options** to the administrative and adjudicative processes.

Negotiation	ALTERNATIVE DISPUTE RESOLUTION			Formal Adjudication
Unassisted Negotiations	Assisted Negotiations	Outcome Prediction Assistance	Administrative Adjudication	Federal Litigation
	Mediation	Early Neutral Evaluation	Binding Arbitration	MSPB FLRA
	Facilitation	Fact-Finding	Appellate Agency ADR Programs	EEOC
	Structured Settlement	Non-binding Arbitration		Federal District Courts
		Peer Review Boards		Federal Appeals Courts
				Supreme Court

What ADR is NOT

- ♦ Appropriate for every dispute
- ♦ An excuse to settle a dispute that should be litigated
- ♦ Substitute for the administrative/adjudicative processes
- ♦ Substitute for disciplinary action
- ♦ One size fits all approach to every dispute

Where Do The Processes Begin?

- EEO Office
- Social Actions Office/EAP
- Union Offices/Labor Relations
- Contracting Offices
- JAGs/IGs
- Chaplain
- You

How Are You Involved In The Processes?

Depends upon:

1. Your position

- 1st Line Supervisor
- Second Line Supervisor
- Union Steward/Official

2. Type of Dispute

3. Your Role (if any) in the Dispute

When Does An ADR Process Begin?

The Air Force tries to use ADR as early in the life cycle of the dispute as **practicable.**

- a. Often in the informal stage
- b. (But) Can occur at any point
- c. May be offered (and tried) more than once

Factors Favoring the Use of ADR

- ♦ The parties are interested in seeking settlement of the dispute, but personality conflicts or poor communication between the parties, or opposing counsels adversely affect settlement negotiations.
- ♦ There are underlying issues that are not formally part of the complaint/grievance which cannot be resolved by the relief legally available, but are the catalyst for the complaint/grievance.
- ♦ A continuing relationship between the parties is important or desirable.

Factors Favoring the Use of ADR

- ◆ The complainant/grievant's demands, or the agency's view of the case, are unrealistic, but a open, frank discussion of the situation with a mediator in a neutral setting may dislodge the recalcitrant party(ies).
- ◆ The parties expect to settle eventually, most likely on the steps of the "hearing room" or courthouse.
- ◆ There is a need to avoid adverse precedent but traditional settlement negotiations have reached an impasse.

Factors that May Make ADR Use Inappropriate

- ♦ **An indication that fraud, waste or abuse or criminality was committed by either party.**
- ♦ The case involves significant legal, policy, or constitutional issues and one of the parties desires a precedent. [Note: If you are unsure of whether a particular case touches on one of these issues, consult the process owner and/or an Air Force attorney.]

Factors that May Make ADR Use Inappropriate

- ◆ The dispute significantly affects non-parties, e.g., relationship between a local union and the Air Force.
- ◆ There is a need for uniform treatment toward this issue or this disputant, e.g., issue has nationwide impact or many similar suits are pending and there is no legitimate reason to settle with only one party.
- ◆ The case is likely to settle through unassisted negotiations.

The Air Force's ADR Experience and Results

◆ Reported Use

- We've collected Air Force wide data for four years
- ADR has been used in over 9,000 Air Force disputes.
- 72% settlement rate
- Use continues to increase AND resolution rate remains high.

◆ Satisfaction

- **90%** of all users were satisfied/very satisfied **regardless** of whether or not their dispute was settled.
- 8% of all users were indifferent.
- 2% of all users were dissatisfied.

Air Force Program Development

Secretary of the Air Force Implementation of the Administrative Dispute Resolution Acts of 1990 & 1996 (Jan. 1993 Memo & Apr. 98 Memo & AFPD 51-12)

1. Established the framework for the Air Force program
 - SAF/GC has overall policy and program responsibility
 - SAF/GCQ has day to day program implementation responsibility
 - MAJCOM's responsible to tailor the ADR Program to meet the needs of their individual bases and installations

Air Force Program Development

**Secretary of the Air Force Implementation of the
Administrative Dispute Resolution Acts of 1990 &
1996 (Jan. 1993 Memo & Apr. 98 Memo & AFPD
51-12)**

2. Established the Tinker ADR (TADR) Program Office in March 1999
 - 1 July 2000 transfer EEO ADR to TADR
 - TADR has day to day program implementation responsibility

Air Force Policy Directive 51-12

What does it do?

- ◆ **Establishes Air Force policy “to voluntarily use ADR to the maximum extent practicable and appropriate”**
- ◆ **Makes the principal Deputy General Council the OPR for ADR**
- ◆ **Requires various “two letter” organizations to work with SAF/GC to implement the Air Force ADR program**

AFMC/AFGE MASTER LABOR AGREEMENT

◆ **SECTION 6.07: GRIEVANCE MEDIATION**

The Union and AFMC agree that Alternative Dispute Resolution (ADR) increases the parties' opportunities to resolve work place disputes. Therefore, the parties agree to work in partnership by establishing an ADR Program to use in connection with work place disputes set forth in the Master Labor Agreement

◆ **ARTICLE 38 UNFAIR LABOR PRACTICES**

The parties agree to work in partnership to establish an Alternative Dispute Resolution (ADR) program to use in connection with avoiding the filing of unfair labor practices. . . .

The Tinker ADR Program

- ◆ **The only AFMC installation with a dedicated ADR program office for workplace disputes**
- ◆ **Tinker's ADR efforts to resolve workplace disputes are among the most progressive in the Air Force**
- ◆ **Tinker's ADR program has the potential to be an exemplar for the Air Force and the rest of the Federal Government**

ADR STATISTICS

FY 99 FY 00

• Number of contacts	*114	214
• Cases mediated	75	123
• Cases withdrawn	16	42
• Cases settled	64	106
• Current resolution rate	85.3%	
86.1%		

*Began March 1999

Lessons Learned

- ◆ **Proper screening is imperative--not every dispute is right for ADR**
- ◆ Preparation is the key to success in settling the dispute
- ◆ Integrity of the process must be preserved
- ◆ Both parties must be educated about the process
- ◆ The sooner you try ADR in the life cycle of the dispute, the better your chances of good resolution

Lessons Learned

- ◆ Simple communication could have prevented many disputes
- ◆ Clear your schedule for the day(s) you're going to try to resolve your dispute
- ◆ Have subject matter experts standing-by by phone for mediation
- ◆ Be on truly neutral turf (not JAG's office or union shop)
- ◆ Have people at the table who can agree to the terms--proper level of supervisor/union representative

Lessons Learned

- ◆ Keep the participants to a minimum-- representatives tend to dig in their heels for the parties even if the parties are ready to make a deal
- ◆ Chronic complainers may not ever be happy or willing to settle
- ◆ One person can geometrically increase the number of complaints at a base/facility--a different person in his/her place can resolve the overload quickly

The Tinker ADR Process

- ◆ Complainants can be referred to our office by anyone or simply walk in.
- ◆ The Complainant is interviewed so that the issues of dispute and requested remedy are documented.
- ◆ The Complainant is then briefed on mediation and their roles and responsibilities.
- ◆ The case goes through a review process to determine if appropriate for mediation.

The Tinker ADR Process

- ◆ The Respondent is contacted concerning issues and requested remedy.
- ◆ The Respondent is briefed in the ADR Office concerning mediation as well as their roles and responsibilities.
- ◆ Mediator is selected from a roster and they set up the mediation.
- ◆ Mediation/ADR conducted.
- ◆ Settlement/Resolution or no agreement/resolution.

Supervisory ADR Role & Responsibilities

- ◆ Get with upper level management and/or Personnel to determine/explore parameters for possible settlement
- ◆ Bring any needed documentation to the mediation
- ◆ Allow at least 4-6 hours for mediation session
- ◆ Remember you are representing management at the table
- ◆ Keep an open mind

The Tinker Mediation

- ◆ Mediation sessions comprised of only 3 people (unless and EEO mediation)
- ◆ Mediators are certified by the federal government
- ◆ Utilizes the facilitative form of mediation

Do's

- ◆ Do check with upper level management, Personnel, Legal, etc. prior to mediation for parameters
- ◆ Do be reasonable and equitable with settlement terms
- ◆ Do keep an open mind
- ◆ Do use confidentiality clauses when needed
- ◆ Do utilize the session as a tool to assist you with frustrating situations or personnel
- ◆ Do attempt to work out prior to ADR/Mediation
- ◆ Do be willing to listen

Don'ts

- ♦ **Don't bring pagers, cell phones, or recording devices to mediations**
- ♦ **Don't mediate without checking on parameters**
- ♦ **Don't sit on requests for ADR**
- ♦ **Don't think of ADR as a union device**
- ♦ **Don't allow too little time to get terms of agreement accomplished**
- ♦ **Don't be close-minded**
- ♦ **Don't be afraid to explore creative solutions to a problem**
- ♦ **Don't be unprepared**
- ♦ **Don't be angry or take it personal**

ADR PROGRAM

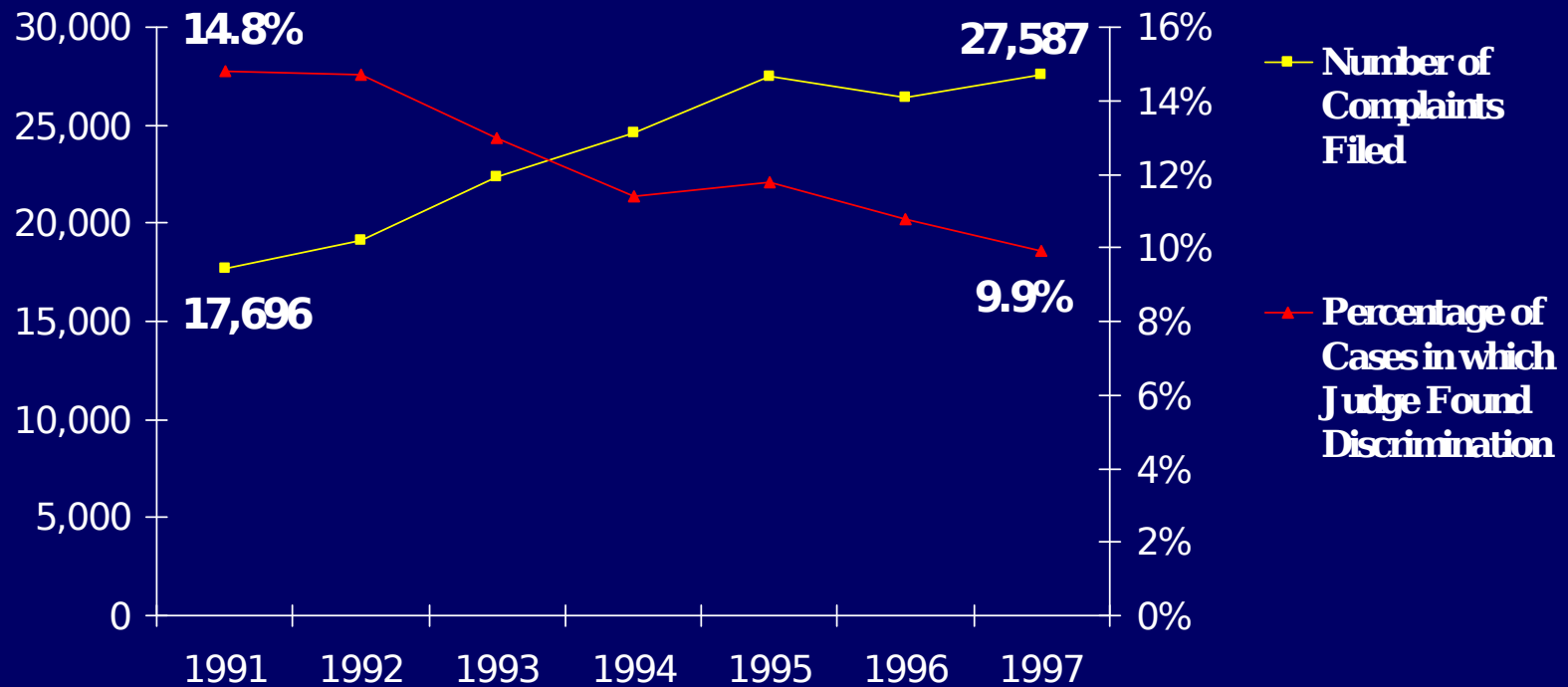
**Workplace
Disputes
Plan**

**Contract
Disputes
Plan**

**Environmental
Disputes
Plan**

EEO Complaints Are Up 56 %

Findings of Discrimination Are Down 33 %



EEO Complaints Often Do Not Involve Discrimination

“[T]here may be a sizable number of disputes . . . which may not involve discrimination issues at all. They reflect, rather, basic communications problems in the workplace.”

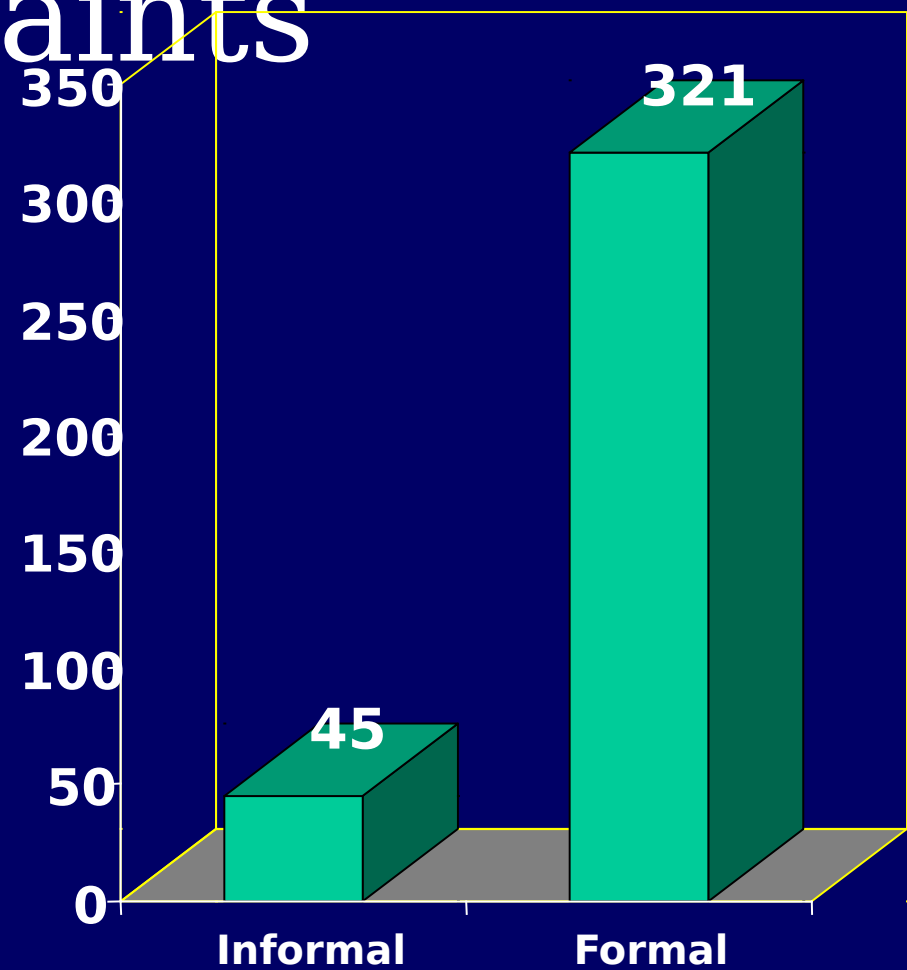
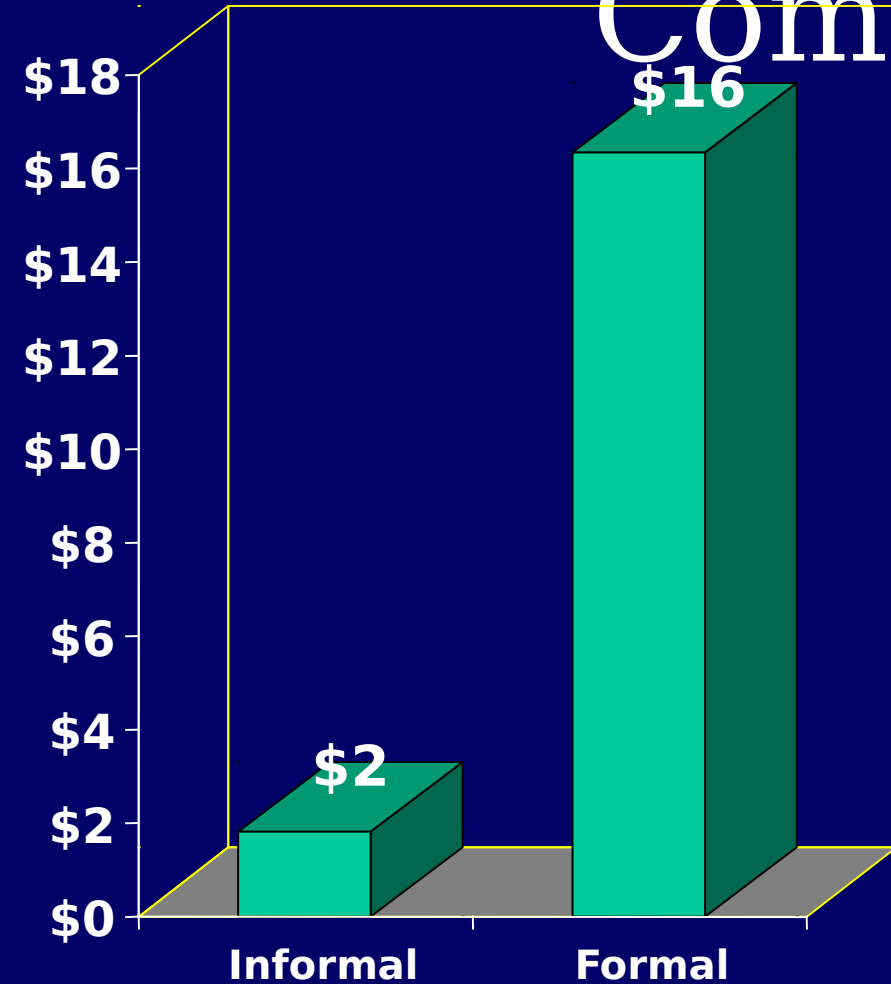
Source: ADR Study, U.S. Equal Employment Opportunity Commission, Office of Federal Operations, Oct. 1996

Informal and Formal EEO

Average Cost (in thousands)

Average Labor Hour

Complaints

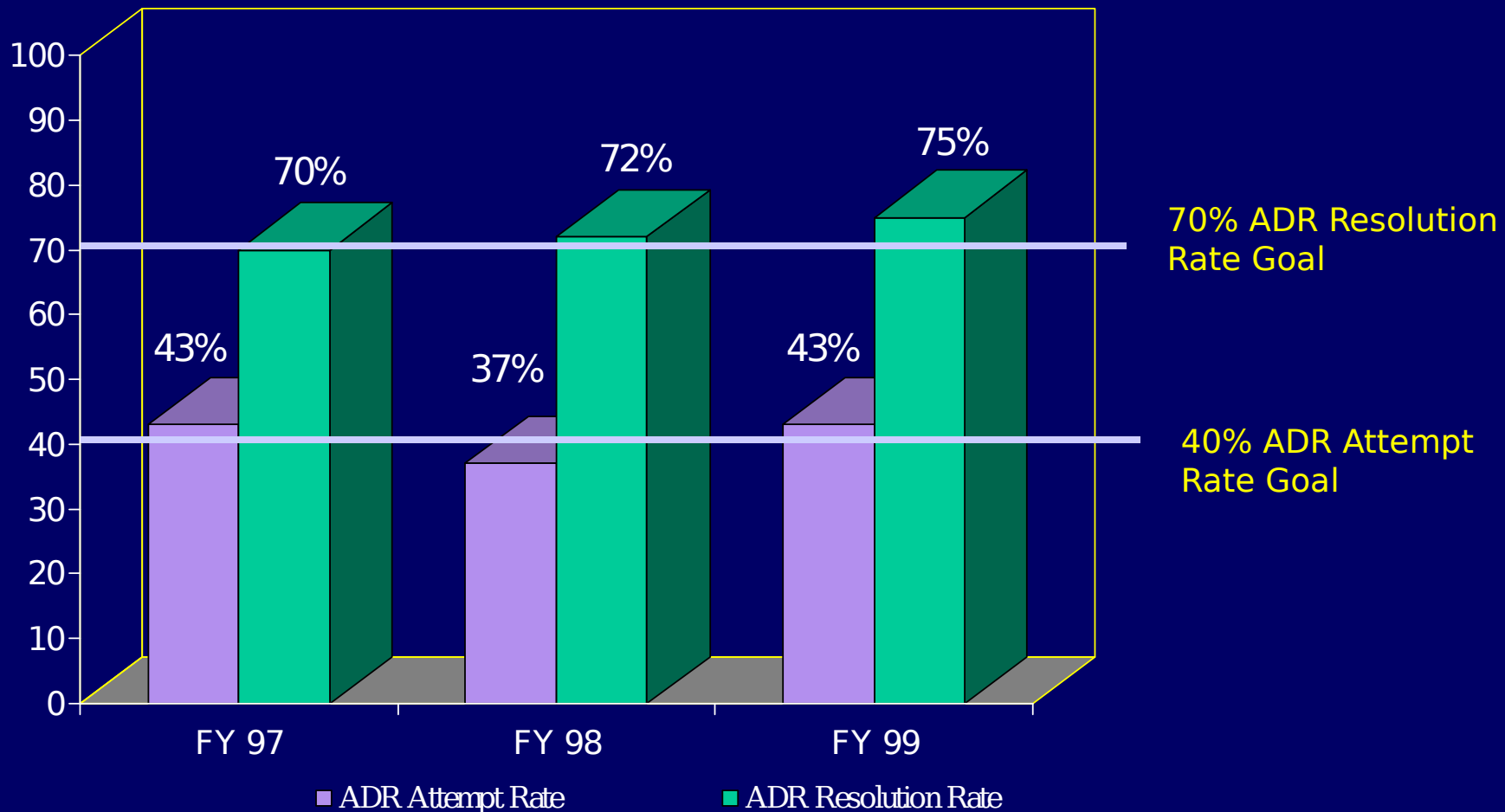


Note: Actual average cost of informal complaint is \$1,795. Actual average cost of formal complaint is \$16,000.

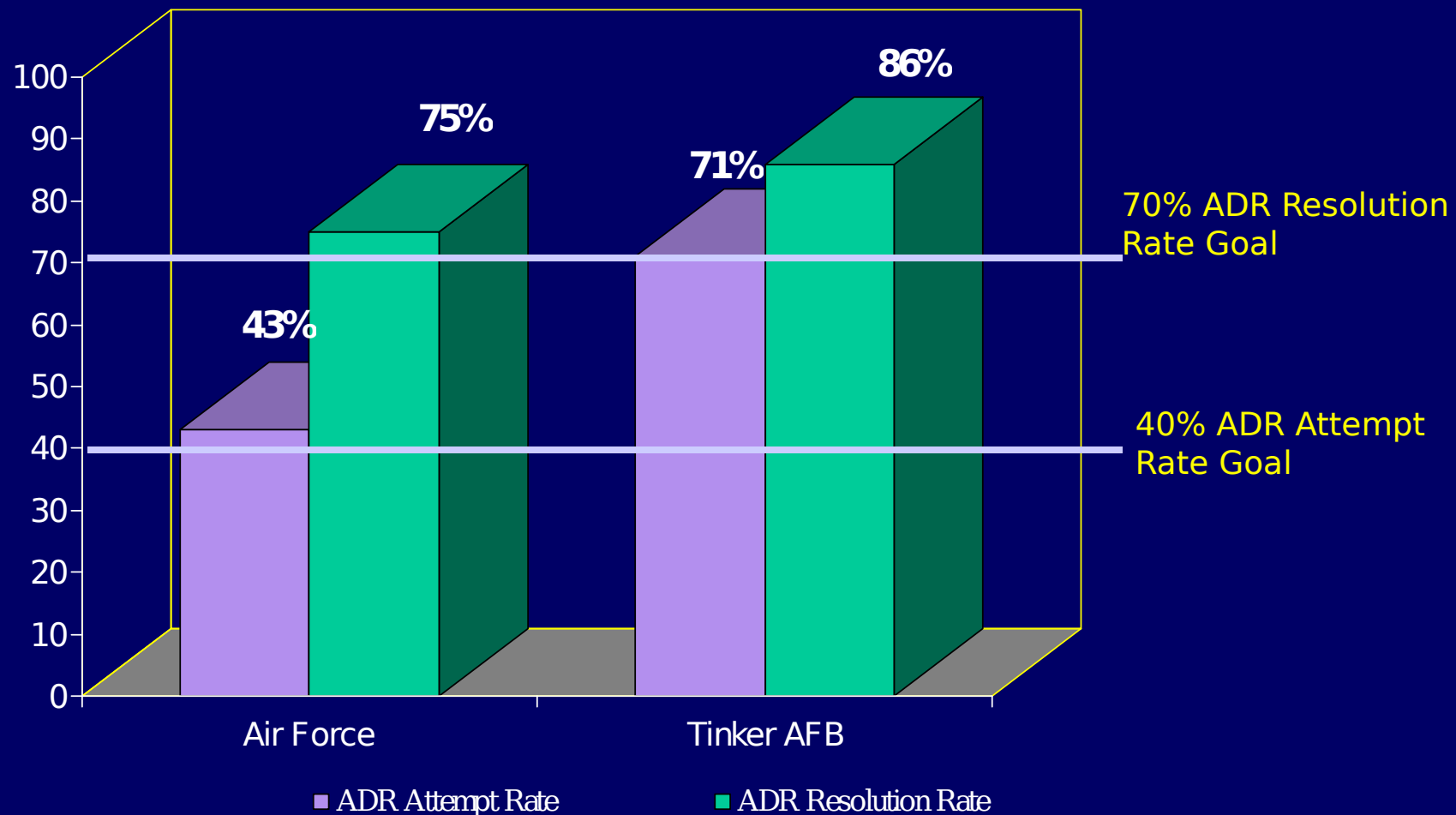
Source: Air Force Audit Agency, Project 98051018

ADR Attempt & Resolution Rates

Civilian Workplace Disputes



ADR Attempt & Resolution Rates Civilian Workplace Disputes FY 99



Who Can you Contact Here at Tinker AFB to Find Out More?

- Mr. John Bilbury ADR Program Mgr 736-2151
- Ms. Leigh Ann Bryson ADR Program Asst. 736-2151
- MAJ Telin Ozier Legal Adviser 739-5811
- James Coil Civilian Personnel 739-7200
- Curtis Haynes Labor Relations Off 739-3875

Where is the Tinker ADR Office Located?

Building 3001, First Floor,
Post 1AD83A
(former medical station)
62151 or 92007